

NH ENHANCED 9-1-1 COMMISSION MEETING MINUTES
FRIDAY, MARCH 8, 2006

PRESENT:	Douglas Aiken, Chairman James Linehan, Vice Chair William Wood, Secretary	NH Association of Fire Chiefs NH Sheriffs Association NH Div. of Fire Standards and Training & EMS
	Kathryn Bailey Mark Violette Paul Szoc Frederick Booth David Caron Jill Healy Wurm Richard Bernard	NH Public Utilities Commission NH Telephone Association NH Federation of Fire Mutual Aids NH Department of Safety NH Municipal Association Verizon Public Member
ABSENT:	Brett Scholbe Donald Hill James Valiquet George Valliere	Professional Firefighters of NH Commissioner, Dept. of Admin. Svs. NH Association of Chiefs of Police NH Police Officer
OBSERVERS:	Bruce G. Cheney, ENP Earl M. Sweeney Peter A. DeNutte, ENP Robert Brown Douglas L. Patch, Esq. Janice Locke	Director, NHBEC Assistant Commissioner, NHDOS Assistant Director, NHBEC IT Manager, NHBEC Orr & Reno Administrative Secretary, NHBEC

The E9-1-1 Commission (Commission) meeting held at the New Hampshire Department of Safety, First Floor Conference Room, 33 Hazen Drive, Concord, New Hampshire was called to order at 9:56 AM by Chairman Douglas Aiken.

1. Discuss Findings of Performance Audit

Assistant Commissioner Sweeney discussed the findings of the most recent Performance Audit. It was found that the system performed flawlessly. There is good quality control. However, the auditors were critical of our business practices. All contracts in New Hampshire over \$5,000 require approval of Governor and Council. The Verizon contract for the database and network has technically been expired for approximately two years. As a result, the Bureau of Emergency Communications (BEC) is paying more to Verizon than it should. In the meantime, the Laconia Public Safety Answering Point (PSAP) cannot be utilized until the Verizon database issues are settled.

2. Discuss Cost Recovery

Assistant Commissioner Sweeney stated that two years ago, the Legislature provided for cost recovery to wireless companies for providing the technology to locate cellular phone calls. None of the companies have been reimbursed yet. There are no administrative rules to provide for how the reimbursements will take place. Legislation has been submitted which would terminate on-going reimbursement but would still require reimbursements for what wireless companies have already done. The Bureau of Emergency Communications (Bureau) has retained Attorney Douglas Patch, a former Chairman of the NH Public Utilities Commission (PUC), to assist in resolving the issues. On September 30, 2005 Chairman Aiken sent correspondence to the wireless carriers requesting detailed information to substantiate their initial claims. To date there have been no adequate responses. Another round of letters to the wireless carriers has been sent.

Assistant Commissioner Sweeney advised the Attorney General's Office has advised:

- 1) The Commission can set separate surcharges for wired and wireless carriers. It does not require a change in the 9-1-1 statute.
- 2) With the wireless companies, the Commission can have a separate surcharge for each company based on the amount being reimbursed.

Attorney Patch commented that a Cingular Wireless lobbyist informed him that she personally delivered a March 2, 2006 letter requesting a Commission

meeting during March. The letter did not answer the questions asked in Chairman Aiken's September 30th correspondence.

Commissioner Bernard suggested Attorney Patch draft a letter that the Commission would meet with the wireless carriers once the information Chairman Aiken has requested is provided. Chairman Aiken asked for the letter within a week. Attorney Patch stated that a reimbursement process needs to be established. He recommended an individual with a telecommunications industry and/or accounting background (possibly from the PUC or OCA) be utilized in this project.

Chairman Aiken noted the technology giving the location for 9-1-1 is also being sold as other services. He inquired how much we are willing to pay to support that commercial venture on their part. Attorney Patch stated that another issue referenced to some degree in at least one Federal Communications Commission (FCC) order is whether wireless companies have already recovered their expenses from their customers. Assistant Commissioner Sweeney suggested if the carriers are seeking a huge cost recovery, maybe it should be spread over a several year period through a Memorandum of Understanding (MOU). He advised at least two wireless carriers expressed interest in that method.

Commissioner Wurm asked if research has been done on how other states have handled the cost reimbursement issues. We could possibly use a formula that has been developed and accepted by wireless companies.

3. Discussion of Invoice for Equipment Associated with Laconia

Assistant Commissioner Sweeney reported that the Department of Safety Business Office just became aware of a bill for equipment associated with the Laconia office that is outstanding for which no provision had been made for payment. The money was encumbered in the Bureau's budget, but just before they were transferred to the Department of Safety, the money was unencumbered to pay for benefits. The money was supposed to be re-encumbered in the next year's budget, but that did not happen. The Legislative Fiscal Committee has been requested to allow the Bureau to transfer funds out of the reserve to pay for the equipment. The Fiscal Committee tabled the request. Assistant Commissioner Sweeney advised the transfer may be authorized at the Committee's next meeting.

4. Update on the Fund Balance

Assistant Commissioner Sweeney stated that the monthly 9-1-1 surcharge increased from 39 cents to 42 cents almost immediately after the Bureau was formed. There has been no increase since and the fund balance is depleted. The surcharge needs to be increased in the near future to support the Bureau's budget.

5. Discuss progress on Contract Negotiations with Verizon

Assistant Commissioner Sweeney stated that the network and the database have been bid twice. Each time Verizon has been the only bidder. Prior to the expiration of the former 5-year contract, Verizon bid the network and the database for \$56,586 a month. Once the contract expired and the Bureau began paying month-to-month, the charges escalated to \$101,635 per month. In response to the Request for Proposal (RFP), Verizon now requests \$136,054 a month. Verizon claims costs have increased due to wage increases.

Verizon will not agree to the standard liability terms that the State of New Hampshire puts in all of its contracts. They claim that in no other state where they furnish 911 services are they held to such onerous terms. There may be some merit to their position because we have instances where people will not bid on state contracts because they do not want to agree to those liability provisions.

Although the Bureau maintains state law is clear as to who owns the 9-1-1 database, in the past Verizon maintained that they could charge the Bureau for relinquishing the database if the Bureau decided to maintain it. Verizon has now agreed to make a one-time transfer of the database for free. The Commission decided some time ago for the Bureau to assume management of the database. The Bureau is constantly correcting errors in the database. When errors are made by other phone companies, Verizon does not follow through to ensure the corrections are made. If Verizon make errors in their own database, there are instances where corrections are not made. In negotiations with Verizon, the Bureau attempted to include a database responsibility item. A penalty clause was suggested that an errors ceiling be established. If exceeded, a portion of the monthly charge would be forfeited. Verizon refused to agree to that provision. Verizon will not take responsibility for database errors due to other phone companies as they have no right to manipulate the data received. Verizon will not accept responsibility for follow-up with the other phone companies in determining if an identified error has been corrected. Verizon maintains to provide follow-up, additional employees would be assigned increasing the contract price.

As of a week ago, Verizon's latest contract proposal was reviewed and a number of problems were identified. Working with Attorney Nancy Smith, Attorney General's Office, the Bureau has recommended changes to Verizon's proposed contract and are now waiting for Verizon's response. Once an agreement is reached, the Bureau will request a Commission meeting and recommend a surcharge increase to cover the additional contract costs.

Commissioner Bailey stated that at the December meeting with Verizon, Verizon committed to reformatting their price in Exhibit B of the contract to show us what the price per circuit was going to be. They committed that they would give that

to us by January 15, 2006. Assistant Commissioner Sweeney responded that we have not received it at this time. Commissioner Bailey stated that it is not unreasonable to ask somebody who we are going to buy services from to tell us the price of those services.

10:15 AM Commissioner Violette left the meeting.

10:16 AM Commissioner Violette returned to the meeting.

Commissioner Bernard stated that as a public member and assignment to the Technical Committee, he has been deeply involved in all of these issues. He would like to make sure that the Commission continues to focus on the performance of Verizon particularly regarding network diversity. The cost issue appears to be the paramount issue. He expressed concern with Verizon's performance and regardless of the settlement of the payment issue, the Commission needs to ensure that the network diversity requirement by the Bureau is met. Regarding the database, he is concerned with the accuracy of the collected data. The Technical Committee studied this issue in depth and made the recommendation the Bureau assume database management responsibility.

Commissioner Wurm stated that she has not been involved in any of these discussions as it would not be appropriate. It is her understanding that the negotiations are moving along and that there are issues that are going back and forth. Verizon has entered into a number of contracts with the State of New Hampshire. The P37, Terms and Agreements, has been a sticking point for Verizon since the beginning. Attorney Patch commented that it is an issue that the state has overcome before.

Attorney Patch expressed confusion about the database issue. There seems to be some disagreement about whether that is something that ought to be part of the contract and Verizon ought to continue with or whether it should to be handled by the Bureau. Assistant Commissioner Sweeney stated that the Commission made the decision, based on the advice of the Technical Committee, to have the Bureau take over the database. The Bureau purchased the necessary equipment. Should Verizon continue to handle the database, the Laconia PSAP database equipment would need to be replaced. A suggestion was made that Verizon make periodic database transfers. If there were errors in the file, the Bureau would detect and correct them. Assistant Director DeNutte clarified that Assistant Commissioner Sweeney had requested Verizon send all its database records to the Bureau on a quarterly basis. The Bureau would then run that quarterly record against the Bureau's database. A transition plan was proposed that would be a separate Memorandum of Understanding (MOU) of what would occur during the transition. IT Manager Brown stated the Bureau/Commission should not be treating Verizon any differently than the Independent Local Exchange Carriers (ILEC's). The system has the ability for the ILECs to check their own records to ensure database accuracy.

Commissioner Violette stated the ILEC's are aware of Verizon's database proposal. The ILEC's were informed there is no cost recovery for the daily batch upload. It could get challenged.

6. Discuss Financial Status and Surcharge Increase

Assistant Commissioner Sweeney reported that as of the beginning of this state Fiscal Year, the Bureau had \$1,212,953. As of January 31, 2006, the Bureau has taken in \$4.91 million in surcharges and had \$159,000 in deposits in transit at that point. It is expected the Bureau will take in about another \$3.1 million between now and the end of the fiscal year on June 30, 2006. That would give a projected amount of money available of \$8.6 million. The Bureau spent \$4.4 million up to January 31, 2006. \$4.0 million in expenses is expected between February 1, 2006 and June 30, 2006. This will leave a balance of \$29,826.40. However, due to staff vacancies, about \$400,000 in the salary accounts will lapse and a change in the state bookkeeping method, a one-time Accounts Receivable of \$625,000 will be booked on July 1, 2006. This would bring the balance up to about \$1 million.

Looking into the future, one of the big questions is Voice Over Internet Protocol (VOIP). The Bureau submitted legislation requesting a surcharge on VOIP. The bill was defeated and will be resubmitted in the next legislative session. Some wire phone customers will be lost to Vonage and there will be fewer wireline phones. These estimates are projecting no loss for VOIP. Surveying Verizon's database, it is expected to collect about \$7.5 million at the current 42 cent per line surcharge and the Bureau's budget for next year is \$8.5 million. There may be a revenue shortfall of \$1 million. A monthly surcharge increase of 5.8 cents (14% increase) would be needed in order to break even. Looking ahead three years, funds would be depleted by FY 2009. No financial reserves or contingencies would be included. The surcharge will need to be increased to ensure a sufficient reserve is maintained.

If Verizon maintains the database, there will be a shortfall of \$2 million. An increase in the surcharge of 11.8 cents a month (a 28% increase) will be necessary in order to break even and the funds would be depleted in a year.

Unfortunately, a new surcharge cannot be set today. The Commission will meet once there is a reasonable Verizon proposal.

7. Recap by Chief Aiken

1. An additional written response to Cingular Wireless is necessary.
2. The Commission and Bureau are awaiting a Verizon reply on the contract.
3. Cost recovery efforts in other states need to be researched.

A suggestion was made to convene a Commission meeting once a workable contract or cost recovery information is received.

Commissioner Caron suggested the Commission or the Chairman and Vice Chairman meet with the Governor and legislative leadership to provide an update on these issues. Verizon appears to have no incentive to get these contracts completed. The Commission does not have lobbyist representation. Commissioner Bernard stated there should be a presentation to the legislators to educate them on these 9-1-1 issues. Commissioner Szoc suggested that a Verizon representative with decision-making authority attend the next Commission meeting.

8. Adjournment

- a. **Commissioner Linehan motioned to adjourn the meeting. Commissioner Wood seconded the motion. Unanimously approved.**

The meeting was adjourned at 11:10 AM.

William Wood, Secretary
Enhanced 9-1-1 Commission